

MINUTES FROM THE HUNTSVILLE CITY COUNCIL MEETING HELD ON THE 12TH DAY OF NOVEMBER, 2009, IN THE CITY HALL, LOCATED AT 1212 AVENUE M IN THE CITY OF HUNTSVILLE, COUNTY OF WALKER, TEXAS AT 7PM.

The Council met in a regular session with the following:

COUNCILMEMBERS PRESENT: J. Turner, Charles Forbus, Lanny Ray, Mac Woodward, Jack Wagamon, Wayne Barrett, Dalene Zender, Melissa Mahaffey and Tom Cole

COUNCILMEMBERS ABSENT: None

OFFICERS PRESENT: Bill Baine, City Manager; Leonard Schneider, City Attorney, Lee Woodward, City Secretary

WORKSHOP SESSION* [6:45pm] (Councilmember Ray and Leonard Schneider, City Attorney, not present during workshop)

1. CALL TO ORDER

Mayor Turner called the meeting to order at 6:47pm.

2. Council will meet with Bill Baine, City Manager, for a report on TxDOT proposed ramp map for I-45. [Bill Baine, City Manager]

The City Manager asked the Council to consider prioritizing projects for arterials in the City. Aron Kulhavy, City Planner, showed the transportation plan from the Comprehensive Plan and also a plan he said has been known as the "190 Corridor" showing where I-14 might come through Huntsville, and said it is still a very preliminary map.

The City Planner also discussed a page in the handout listing street projects and their expected costs, for Councilmembers to prioritize. The City Manager told Councilmember Woodward that he would prioritize them based on anticipated traffic problems due to the Target store opening to Smither Overpass, and the effect of the one-way feeder roads on local businesses. The City Manager also said that the Mayor has pointed out the difficulties around the Highway 75 North/I-45 interchange; and his own expectation of the impact of traffic diverted to the Avenues area as Ravenwood is further developed.

The City Manager mentioned citizen requests for another method of crossing I-45 without going down to Goree, and the need to widen Montgomery Road for ease of accessing the hospital. He said he would also look for grants to help free up engineering assets.

The Mayor asked if the City Manager thought the higher priority was transportation or water issues. The City Manager said he believed the water issue would be solved through referendum, and did not seem to be a top priority of the citizens currently.

3. Review of urban arterials as topic for future workshop. [Bill Baine, City Manager]

Aron Kulhavy, City Planner, displayed the TxDOT map of the existing and proposed ramps on I-45 and briefly discussed their locations. The Mayor said he believed major public relations education effort would be needed because the on-ramp by Wal-Mart is scheduled to go away and people would have to go almost to the hospital to access I-45 South from 11th Street and would have a major impact on Avenue S.

4. Discuss presentation to TxDOT on November 19 in Austin. [J. Turner, Mayor]

There was not time to discuss this item.

5. ADJOURNMENT

The meeting was adjourned at 7pm.

REGULAR SESSION* [7:00PM] (Leonard Schneider, City Attorney, present for regular session. Councilmember Ray arrived at reading of Consent Agenda)

1. CALL TO ORDER

Mayor Turner called the meeting to order at 7:03pm.

2. PLEDGE OF ALLEGIANCE

U.S. Flag

Texas Flag: Honor the Texas Flag. I pledge allegiance to thee, Texas, one state under God, one and

Indivisible.

3. INVOCATION

Councilmember Barrett gave the invocation.

4. PRESENTATION

The 2009-2010 Youth Advisory Board will be presented at the December 8, 2009 meeting.

5. PUBLIC HEARING – To receive comments from all interested persons in the proposed removal of Chapter 2 of the Huntsville Horizon Comprehensive Plan and replacing it with a copy of the existing zoning map and a description of the zoning districts as recommended by the Planning and Zoning Commission.

The hearing was opened and closed at 7:05pm. There were no participants for the public hearing.

6. PUBLIC COMMENT

Joseph Milam spoke on his concerns about electromagnetic fields causing blood clots. He also read aloud the Huntsville Police Department's Mission Statement.

Anne True spoke in favor of Ordinance 2010-2. She said she felt that animals sold on roadsides have not been vaccinated or screened for disease, and are often inbred and suffer from genetic diseases. She said buyers suffer when the animal sickens and dies and cannot find the seller. She mentioned Harris County's ban on roadside animal sales. She said animals bought on impulse are often neglected and treated inhumanely, or returned to shelters. Mrs. True further said the ban would not prevent people from selling from their homes or advertising in the newspaper, and encouraged people to get animals from the Rita B. Huff Animal Shelter. She said she realized that some Councilmembers did not want to criminalize this activity, but that she did not feel it would stop if it were not criminalized.

John Cromer spoke on the placement of the EMS during the remodeling of the library. He said that he thought the EMS would be moved to Highway 19, but that this could cause possibly unanticipated extended service times to the rest of the citizens. He asked the Council to postpone the remodel until the concern could be addressed or that it work with the County to resolve the issue.

Charles Smither, Jr. spoke concerning the Brookview Committee Report, saying the report blames the current Development Code for the problems. He said he agreed that the Code needed revision, that it had not seemed to be a priority for previous Councils, and that he hoped this Council would make it a priority. He also stated his disagreement with the Committee's response to the issue of greenspace at Brookview, as they stated they believed it resolved. He said that although parkland was added to the final plat, it was done after the Planning & Zoning Commission (P&Z) approved the plat, which had no mention of parkland at that time, and that there was no record as to who authorized the change. He further said his main problem was how the staff at that time (of whom he said none was currently employed by the City now) and the members of the P&Z at the time (he said only three of the seven are still serving) could not have noted that no parkland was dedicated in the plat and approved the plat despite the importance of parkland to the citizens and the requirement of parkland clearly set out in the Code, Section 211.1 (2), Item 18. He said the preliminary plat is the master development plan and the final plat is almost a formality as long as it is in substantial compliance with the preliminary plat. He said he wanted to know what steps were being taken so that persons currently responsible for omissions like this would be held responsible.

Kelley Barber spoke in support of extending the hours of the sale of alcoholic beverages, and wanted to thank the members of the Council and that he felt they were doing a great job.

The City Secretary read an email sent from Sonja Tennant in opposition to the ban on the roadside sale of animals, saying she felt it took citizens' control away and that people had the freedom of choice not to purchase from roadsides. She said she felt the Ordinance was written for the animal shelters. Ms. Tennant also spoke against the extension of the hours of sale of alcoholic beverages, that she felt it might benefit bar business owners but not the greater good of the community. She said Huntsville should set the example and take care of the community rather than help create profit for others.

7. CONSENT AGENDA

(Approval of Consent Agenda authorizes the City Manager to implement each item in accordance with staff recommendations. An item may be removed from the Consent Agenda and added to the Statutory Agenda for full discussion by request of a member of Council.)

a. Approve the minutes of the City Council meeting held on October 20, 2009 and City Council special session held on October 27, 2009. [Lee Woodward, City Secretary]

b. Approve Ordinance 2010-1 for proposed Franchise Agreement and COSA with CenterPoint Energy Texas Gas Operations, second reading. [Bill Baine, City Manager]

- c. Approve Ordinance 2010-7 to authorize changes to the FY 09-10 Fee Schedule to remove the Master Plumber and Journeyman Plumber fees imposed by the State on the City of Huntsville Fee Schedule for FY 09-10. [Winston Duke, Finance Director]
- d. Authorize City Manager to accept payment in full to City of Huntsville in the total amount of \$12,500 for Yoakum Ridge and \$2,500 for Hillcrest property. [Winston Duke, Finance Director]
- e. Approve Resolution 2010-5 to authorize the City Manager to apply for, and accept upon award, various Safe Routes to School Grants for sidewalks. [Dr. Sherry McKibben, Community Development Specialist]
- f. Accept additional donation from Mr. and Mrs. Powell of \$5,250, for a total of \$15,250, for sign for Bruce Brothers Huntsville Regional Airport, and approve sign design contract from 4D Signworx. [Councilmember Mahaffey and Councilmember Forbus]
- g. Authorize the City Manager to dedicate the Green House property as green space. [Matt Lumpkins, Director of Community Services]
- h. Approve Ordinance 2010-8 amending the budget for FY08-09. [Winston Duke, Finance Director]
- i. Authorize the City Manager to purchase loose equipment to be placed on new pumper fire truck and to enter into a contract with Ferrara Fire, CASCO Ind. and 5 Alarm Fire for additional general Fire Department equipment as budgeted. [Winston Duke, Finance Director]
- j. Authorize the City Manager to enter into Phase II & III of the Library Architectural Contract with Aguirre/Roden in the estimated total amount of \$430,000, and authorize the commencement of the Design and Bid & Construction Phases of the referenced contract in the total estimated amount of \$430,000. [Tom Weger, Project Manager]
- k. Authorize City Manager to purchase, with grant funds, energy efficient lighting from Musco Lighting in the amount of \$164,300 and authorizing use of McCafferty Electric to complete installation. [Winston Duke, Finance Director]
- l. Authorize City Manager to purchase one (1) 2010 roll off transfer truck and one (1) 2010 tractor transfer truck in the amount of \$203,659 from Houston Freightliner, Inc. [Winston Duke, Finance Director]
- m. Approve City of Huntsville employee holiday for December 2010 as Monday, December 27, 2010. [Angela Martin, Benefits Coordinator]

Councilmember Forbus made a motion to accept the consent agenda. Councilmember Zender seconded the motion.

Councilmember Mahaffey received clarification on item (c), that the discussed items on the Fee Schedule were being removed because the state would no longer allow the City to charge for

Councilmember Woodward confirmed that item (j) had been approved by the citizens and did not have to have two readings.

Councilmember Mahaffey asked if bids were taken for the electrical work on item (k), and Winston Duke, Finance Director, said they had been. Councilmember Forbus asked about the type of lighting and was told by the City Manager that they were low energy LED type lights on safer poles.

Councilmember Barrett received some explanation on item (l) from the City Manager, who told him that a previous truck burnt and the others were quite old, and that these were replacements.

Councilmember Forbus asked about item (d) and was told by the City Manager that this was the disposition of lots that were not useful to be held by the City.

Councilmember Forbus agreed to the City Attorney's question that he was willing to amend his motion to accept the consent agenda on item (g) to authorize staff to prepare all documents for City Manager to sign to effect the dedication of the Green House. Councilmember Zender accepted the amendment to her second of the motion.

The motion passed unanimously.

8. STATUTORY AGENDA

- a. *Discussion and possible action* to approve Resolution 2010-7 removing Chapter 2 of the Huntsville Horizon Comprehensive Plan and replacing it with a copy of the existing zoning map and a description of the zoning districts as recommended by the Planning and Zoning Commission. [Aron Kulhavy, City Planner]

Councilmember Wagamon made a motion to approve the Resolution. Councilmember Forbus seconded the motion.

Councilmember Woodward had Aron Kulhavy, City Planner, confirm that the City would then be returning to the plan of three zones. Mr. Kulhavy said a map would also be included. Councilmember Woodward asked if this replacement would answer concerns about removal of the Chapter. Mr. Kulhavy said the Planning and Zoning Committee would again review the Development Code for these concerns.

Councilmember Mahaffey asked Mr. Kulhavy to discuss his concerns about removing the Chapter. He said the staff was concerned about enforceability of certain sections of the Development Code (Code) if this chapter of the Comprehensive Plan was removed.

Councilmember Forbus asked about the prior versions of the Comprehensive Plan, and Mr. Kulhavy told him that they were formatted differently and were very dated. Councilmember Forbus asked if the Planning & Zoning Commission (P&Z) would be bringing back a revised version of the Chapter, and Mr. Kulhavy said the Committee intended to do so.

Councilmember Mahaffey asked Councilmember Wagamon to put forth his understanding of the P&Z meetings he had attended concerning this issue. Councilmember Wagamon said there was discussion about the enforceability of the Code, but that he rejected that idea. He said he felt that health, safety and welfare of the community, a liberal interpretation of the Code in favor of the City and the seven voting members of the P&Z would take care of enforceability. He said that the Code was a law and had no disagreement from the rest of the P&Z.

Councilmember Wagamon said that he had brought forward the removal of Chapter 2 because he felt there was some very evil and corrupt content necessitating complete removal of the Chapter. He said he further reminded the P&Z that their mandate was to have hearings and made recommendations for the Code and the Comprehensive Plan (Plan), that it was their job. He said that at that point there was a unanimous vote to remove the Chapter and no discussion of revising the Chapter.

Councilmember Mahaffey clarified with the City Attorney that the Comprehensive Plan was a planning tool and the Code was a law. The Mayor reminded the Council that the Plan was adopted by Resolution, and that it was widely recognized that the Code needed revision and that the P&Z realized they had been tasked to work on it and had started that process.

Councilmember Barrett asked if the Plan had originally been adopted less the land-use provision, but the Mayor said it was minus the zoning map. Councilmember Barrett thought the action might be clarified by stating that the Resolution adopted the Plan minus the map.

Councilmember Wagamon said he would be fine with the change, and Councilmember Forbus said he would also be fine with the change to his second.

Councilmember Woodward stated he did not think they needed to address taking out the map, as it was never approved. Further, he asked Mr. Kulhavy if placing the existing map would answer his concerns of July, and Mr. Kulhavy said his concerns still existed.

Councilmember Forbus clarified with the Mayor that there was wording in the Chapter that was difficult to comprehend with the removal, or non-approval of the map. The City Attorney then advised that the Council move into executive session.

The Council adjourned into executive session at 7:47 and reconvened at 7:55.

The motion passed 8-1, with Councilmember Woodward voting against the motion.

Councilmember Wagamon commented that zoning had effectively been "killed" tonight.

- b. *Discussion and possible action* to approve entering into the pre-award contract with Klotz and Associates for the Drainage Study, Design, and Engineering for Town Creek to be activated upon award of the FEMA grant. Pre-award contract with Klotz and Associates is in the amount of \$787,000 over a two-year period, with a match of 25% by the City of Huntsville, second reading. [Bill Baine, City Manager]

Councilmember Forbus made a motion to approve the contract. Councilmember Ray seconded the motion.

Councilmember Forbus mentioned the Council had discussed this item before, and felt it very timely after recent heavy rains.

Councilmember Woodward confirmed with the City Attorney that this would qualify as a second reading.

Mayor Turner answered Councilmember Cole's query of the amounts that were being approved, that the amount of the match for the Klotz contract had been budgeted, and that this would be necessary to execute the grant.

Councilmember Ray mentioned that this was the first step to turning Town Creek into a linear green space that would also solve the drainage issues, highlighted by the recent rains.

The motion passed unanimously.

9. ELECTION MATTERS

- a. *Discussion and possible action* to approve Ordinance 2010-6 canvassing the returns of the Special Election and Charter Election held on the 3rd day of November 2009, for the purpose of voting on a proposition for issuance of debt to rehabilitate the Huntsville Public Library, to vote on the exchange of parkland, and on various proposed amendments to the City Charter of the City of Huntsville, Texas. [Lee Woodward, City Secretary]

Councilmember Zender made a motion to approve the Ordinance. Councilmember Mahaffey seconded the motion.

The motion passed unanimously.

- b. *Discussion and possible action* to approve Resolution 2010-8 canvassing the returns concerning the vote on a proposition for issuance of debt to rehabilitate the Huntsville Public Library. [Lee Woodward, City Secretary]

Councilmember Ray made a motion to approve the Resolution. Councilmember Mahaffey seconded the motion.

The motion passed unanimously.

10. MAYOR/CITY COUNCIL AND CITY MANAGER REPORT

- a. *Discussion and possible action* to adopt Ordinance 2009-59 adopting extended hours for the sale of alcoholic beverages pursuant to Texas Alcoholic Beverage Code Section 105.03, which would allow alcoholic beverage permit holders to obtain a late hours permit to sell alcoholic beverages, beer and wine between midnight and 2am on any day, third reading. [Councilmember Zender and Councilmember Forbus]

Councilmember Zender made a motion to approve the Ordinance. Councilmember Forbus seconded the motion.

Councilmember Forbus mentioned that he and Councilmember Zender had spoken that afternoon with Dr. Roseann Keathley of SHSU, who told them she knew of a local man who had a school bus service to College Station, presumably to provide an alternative to Huntsville's earlier closing hours for sale of alcoholic beverages.

Councilmember Barrett said the Council had tasked the Police Chief with preparing a report and had not had time to review it. He said he felt it was unthinking to ask for the report and then take a vote without having an opportunity to review it.

Councilmember Barrett made a motion to table the Ordinance. Councilmember Cole seconded the motion.

The motion was defeated, 3-6. Councilmembers Barrett, Cole and Woodward voted to table. The Mayor and Councilmembers Wagamon, Ray, Zender, Mahaffey and Forbus voted not to table the motion.

Councilmember Ray mentioned the Police Chief's report had been posted on the website the day before, and that the Chief's intent had been to give a verbal report, before he had unavoidably had to miss the meeting. The City Manager said he had discussed the report with the Chief and recalled that the Chief had previously told the Council that if the measure were adopted, the Chief anticipated they would be busier later at night, and that the report had not changed that. He also said the Chief's summary had found that there was not much data on either side, and that he turned up larger concerns on how operations with implementation of extended hours worked, for example handling late night happy hours, crowds, parking lot patrols and public transportation.

The City Manager also referred to a finding in the report from a Professor Chapman, who found that extending hours might be worth eliminating other high-risk drinking activities. The City Manager further mentioned a report that found that senior decision makers were ineffective in changing the numbers of students who drink, and mainly only effect where and when it occurs. The City Manager relayed the Police Chief's finding that he didn't think it would affect the number of deaths, and that underage drinkers were already law breakers. The Police Chief had further said he and the department would certainly support and enforce any decision of the Council.

The Mayor said he felt the Police Chief had compiled a very thorough report, and that the issue would probably not be decided through a presentation of statistics but rather by the individual Councilmembers would have to search within themselves for a decision.

Councilmember Forbus said a constituent had contacted him with a concern that the Chamber of Commerce, Rotary Club and the Lion's Club, among others, had not been brought into the discussion. Councilmember Ray responded that the item had been available for public discussion as it had been covered in the newspaper and had been on the agenda several times. He said empirical data did seem to indicate that extended hours were possibly safer, and that although San Marcos showed an increase in arrests, they had specifically targeted additional police presence in the entertainment area, but had had no increase in vehicular accidents or fatalities.

Councilmember Barrett said the arguments in support of the measure seemed to imply that opponents of the Ordinance were simply against consumption of alcoholic beverages, but that no one had advocated that as a response to the Ordinance. He said that many, many citizens opposed this Ordinance and that Bob Fowler had submitted a petition reflecting this. Further, Councilmember Barrett referred to the Ordinance wording that this extension was in the best interest of the citizens, with which he did not agree, and that the burden of proof was why to support the Ordinance, not a

response of why not to. He also said he found it very cynical to ask a staff member to prepare a report and then rush a vote without having time to review it.

Councilmember Cole agreed that he would like to ask the Chief about his report. He also said that since the Ordinance wording said it was in the best interest of the citizens, he would like to discuss whose best interests it was not in, for example, alcoholics and abusers of alcohol. He felt that the law previously passed was fair and just, and that perhaps the influence of zero-order kinetics on this issue was not appreciated fully.

Councilmember Wagamon said he felt this was an issue of personal responsibility,

Councilmember Forbus said he felt he could support the measure if there was a period set for review.

Councilmember Forbus proposed an amendment for review in nine months. Councilmember Wagamon seconded the amendment.

In response to a comment from Councilmember Ray, the City Attorney said the appropriate action would be a directive for a report from the Police Dept.

Councilmember Forbus made a motion to make an amendment that the Ordinance be passed contingent upon a staff review and presentation of the effect of the Ordinance nine months from the date of passage. (The City Attorney then recommended that it be a separate motion made if the Ordinance was passed, not that it be a contingency.)

Councilmember Ray said he believed they should have the Ordinance take effect so that the holiday season would be included in the data. The City Attorney stated that late hours permits would have to be applied for, and that it would have to be published, so the effects of the Ordinance wouldn't begin to be felt immediately.

Councilmember Forbus withdrew his amendment. Councilmember Forbus made a motion to amend the Ordinance to take effect December 1, 2009. Councilmember Mahaffey seconded the motion. The City Attorney clarified that this would be to Section 6 of the Ordinance and that the City Secretary would be instructed to publish notice of the Ordinance if passed.

The motion passed with a vote of 7-2, with Councilmembers Woodward and Barrett voting against the motion.

Councilmember Ray said he believed that passing the Ordinance would level the playing field of the City and its merchants with that of surrounding communities, and that they were not mandating anything, but simply permitting business owners to have the same state mandated opportunities as others. He further said that citizens of any age who chose to drink in other communities would be unlikely to run into a sober driver to drive them home or take a taxi, and that to walk home was not an option, as all would be here.

Councilmember Ray further said that other events such as concerts and conventions would be more likely to go to less restricted venues, made competition that was more difficult for local vendors, and that it was an artificial inhibition of trade not to extend the hours.

Councilmember Barrett reiterated that he would like to see data on anecdotal postulations of lost revenue. He said he had heard from students who opposed the measure since it would put returning students arriving home later in the night. He further said he hoped there would be no negative data returned in nine months, but opposed taking the risk. Councilmember Barrett also pointed out that the voters had recently lowered the threshold for referendum, so perhaps that was an option if there was indeed enough public support.

Councilmember Mahaffey said she was struggling with the decision, but that the opportunity for referendum applied in both directions. She said she had spoken with the Police Chief and that he had told her that his research had brought him to the position that the workload for officers would just be shifted to later hours.

Councilmember Forbus said he agreed with Councilmember Barrett that there was a lack of hard data, but that he didn't think they would be able to get any. He said that he would support it with the nine-month review period.

Councilmember Ray said there was some accident data on surrounding highways over the last three years. He said there were five alcohol-related crashes involving young drivers between here and College Station, three between here and Trinity County, and twelve in I-45 south of town.

The motion passed 6-3, with Councilmembers Woodward, Barrett and Cole opposing the Ordinance.

Councilmember Forbus made a motion that the staff be tasked to return in nine months with a comprehensive study of the effects of the Ordinance. Councilmembers Ray and Mahaffey seconded the motion.

Councilmember Ray asked if they could have reports in nine and eighteen months, and Councilmember Forbus confirmed that. Councilmember Forbus responded to a question from Councilmember Mahaffey that he would like the report in nine months, so it would contain eight months of data.

The City Manager said the Police Chief had recommended establishing a review committee.

Councilmember Woodward suggested that they also attempt to track additional costs of policing in the report. Councilmember Ray also suggested including revenues from fines.

The motion passed unanimously.

b. **Presentation of information on future Council discussion of policy on water issues. [J. Turner, Mayor]**

The Mayor said he would like to have some policy discussions about water after the first of the year.

Councilmember Woodward asked if they were discussing the treatment plant and future supply, and the Mayor confirmed he would also like to discuss water quality issues.

The Mayor said this would help clarify the policy directions for the water system in the next budget year.

Councilmember Woodward said the discussions would help educate the public.

Councilmember Wagamon said he hoped they would include numbers from the TCEQ (Texas Commission on Environmental Quality) and a frank presentation of the interests of both the public and of other special interests. He further asked if someone wanted to build a coal-fired plant north of town, if that were the reason for the discussion, and said that if there was a discussion like that, it should be held in the open.

c. ***Discussion and possible action on new appointments and reappointments to various Boards & Commissions of the City of Huntsville. [J. Turner, Mayor]***

The Mayor made a motion to make five appointments to Boards and Commissions. Councilmember Forbus seconded the motion.

The motion passed unanimously.

The Mayor said that he felt there were some further discussions needed before appointing Councilmember Wagamon to the TIRZ Board.

d. ***Discussion and possible action to approve Ordinance 2010-9 for proposed changes from Finance Committee meeting of October 12, 2009. [Councilmember Woodward, Finance Committee Chairman]***

Councilmember Mahaffey said the changes had been suggested by the Finance Committee to update the Fiscal & Budgetary Policy. Councilmember Woodward said the amounts in the policy were antiquated and that these changes would increase the City Manager's ability to move projects along. Councilmember Mahaffey recalled that this was for items already approved by the Council in the budget.

Councilmember Woodward made a motion to approve the Ordinance. Councilmember Mahaffey seconded the motion.

The motion passed unanimously.

e. **Presentation by Aron Kulhavy from committee established by Resolution 2009-27 to review the Brookview Subdivision. [J. Turner, Mayor]**

At this point, Councilmember Wagamon asked if the second Public Comment section should be held at this time. George Russell thanked the Council for their hard work and said they were the best Council he had seen since 1950.

Aron Kulhavy, City Planner, referred to the memo prepared by the committee, and said they found that the changes made to the final plat before filing in reference to the establishment of parkland were minor and in favor of the City. He said the submission of homeowner's rules were discussed at all the meetings and were filed before the plat was filed. Mr. Kulhavy further said that there was still confusion over the row house lot standard versus the row house construction. He said the omission of side street setbacks were used creatively by the developer who saw them as greenbelts and measured setbacks from that.

Mr. Kulhavy said the committee wanted to focus on solutions and clarification of language in the Code, and broadening the range of lot and construction options.

Councilmember Wagamon said he did not feel that the issue of changes to the Brookview plat prior to filing was in favor of the City, but was not resolved. He also asked about the consistency of lot type and construction types matching, and Planner Kulhavy said that would be taken up at a joint session of Council and P&Z scheduled for December 8, 2009.

Councilmember Mahaffey said she was concerned that there did not seem to be a good paper trail of approvals and accountability through the planning process. Mr. Kulhavy said it was a concern, and that communication and new procedures have been put into place to work to resolve these issues.

Councilmember Cole asked what the procedure would be if the next section of Brookview raised the same issues. Mr. Kulhavy said the plat would have to adhere to the Code or they would have to ask for a variance.

Councilmember Mahaffey expressed a concern about terminology in the report about using "logic" rather than strictly following regulations.

Councilmember Wagamon said the developer had described yards and setbacks as greenspace, but that the committee felt the P&Z would watch that more closely in the future.

- f. **Discussion** to adopt an Ordinance 2010-2 to prohibit the sale of animals along roadsides and in parking lots and discussion on reviewing, possibly updating and putting all regulations concerning animals into one ordinance, second reading. [Councilmember Mahaffey and Councilmember Forbus]

Councilmember Mahaffey received confirmation from the City Attorney that she could vote on the item, as she received no compensation from being on the board for the Rita B. Huff Humane Society. She asked Anne True to confirm that Harris County had a law preventing the roadside sale of animals, and that Montgomery County was considering the same, and that perhaps some of those people were coming to Huntsville to sell animals.

Councilmember Mahaffey further said she would like to hear from the public, and consider a dangerous dog provision. The City Attorney said he has revised the Ordinance to include provisions for cleaning up animal wastes, and that he felt Carrollton had a very complete ordinance.

Councilmember Cole said he felt it was a dangerous activity as it restrained economic development, that Huntsville was a rural area with animal husbandry, and was intrusive.

Councilmember Woodward asked if there were cities that required permits for roadside animal sales, and the City Attorney said there were.

Councilmember Mahaffey said the Ordinance did not prevent pet stores, but to prevent people selling in the public right of way.

Councilmember Ray said it was his interpretation that the Ordinance did prevent people swapping animals at Starbuck's. He was also surprised insects were included in the Ordinance, and wondered if there were a problem with house pets or with all classes of animals. The City Attorney said he felt it was good form, and confirmed Councilmember Ray's understanding that the Ordinance currently made it a Class C misdemeanor not to clean up animal wastes.

Councilmember Forbus conferred with the City Attorney and was told that he could propose an amendment to allow parking lot sales with the permission of the lot owner.

Councilmember Woodward said it seemed this would be in the best interest of the citizens and probably addressed a public health and safety issue, considering sick and diseased animals.

Councilmember Cole said he knew of sellers from outlying areas who came to Huntsville due to the greater flow of customers. He also wanted to know why Rita B. Huff wasn't doing the same thing and taking the animals to the people. He further said that Rita B. Huff animals were expensive and that other retailers would mark down merchandise.

The City Attorney said there would be ample opportunity for this issue to be visited again and the public would have the opportunity to comment.

- g. **Discussion and possible action** to approve Resolution 2010-9 to repeal Resolution 81-4 to dissolve the Police Promotional Review Board panel. [J. Turner, Mayor]

The Mayor said this board has not functioned for some time and that is the intention for the elimination of the board.

The Mayor made a motion to approve the Resolution. Councilmember Woodward seconded the motion.

The motion passed unanimously.

- h. **Presentation of new website and information on social networking links to the City of Huntsville.** [Councilmember Zender]

Councilmember Zender discussed the new City website, and live streaming and archival of the Council meetings. She further mentioned the new Twitter and Facebook sites for the City. The Mayor thanked the Councilmember and the Communications and Service Committee.

Councilmember Forbus and the Mayor thanked Chris Vasquez, IT Manager, for his hard work to make these options possible.

- i. **Discussion and possible action** to commission a feasibility study to build an expo center/indoor arena, per recommendation from HOT Board meeting of October 29, 2009. [Councilmember Forbus]

Councilmember Forbus said Councilmember Ray had brought this idea to the last HOT Board meeting, for the purpose of bringing additional events to town, and discussed a similar facility in Crockett.

Councilmember Ray said citizens had mentioned other small town facilities that had built indoor covered arenas and expo centers of metal buildings that would not compete with centers such as the convention center at the

H.E.A.R.T.S. Museum. He said improvements to the fairgrounds had been discussed but that there were still issues such as not being able to sell alcohol.

Councilmember Ray went on to say that he was interested in a feasibility study and discussing this project with individuals currently involved with the annual rodeo and similar events, local promoters, etc. to discuss location, operation, scope and costs. He said this was a primary intention of the use of HOT Funds according to state guidelines. He reiterated that he was not interested in an extremely expensive, carpeted facility, but something more in terms of dirt floors for rodeos, gun shows, etc.

The Mayor confirmed that this was not an item requiring two readings, and to propose how much money was being discussed. Councilmember Forbus suggested tasking the staff to put together a proposal.

Councilmember Woodward made a motion to ask the HOT Board to put together a special committee.

The Mayor said the HOT Board could make a recommendation. Councilmember Forbus and Councilmember Ray said they liked the idea of the HOT Board doing so and had received feedback from a number of citizens.

Councilmember Ray made a motion to send the issue back to the HOT Board and recommend a committee and parameters for the feasibility study. Councilmember Forbus seconded the motion.

Councilmember Wagamon asked how much money was received in HOT funds each year. Councilmember Wagamon and Winston Duke, Finance Director confirmed it was about \$500,000 annually.

Councilmember Forbus said he had met the person who owns the Prison Rodeo website and who had some good ideas.

- j. *Discussion and possible action* to approve sponsoring the return of the Huntsville National Guard by making travel arrangements funded through donations to the city on behalf of the soldiers and contributing up \$ 5,000 for funding if necessary or remitting excess funds to the family support organization on behalf of the soldiers. [Councilmember Wagamon]

Councilmember Ray made a motion to approve the donation. Councilmember Forbus seconded the motion.

Councilmember Ray recalled how many veterans he had seen the night before at the Veteran's Day Banquet and the local support for them he had witnessed. The Mayor confirmed the soldiers were scheduled to deploy in December.

The City Attorney confirmed with the City Manager that the funds would be used for a public purpose and the Texas National Guard would be a repository and coordinator to schedule the transport, and that additional funds would be for the Huntsville families remaining behind or a welcome home ceremony.

Councilmember Cole asked what percentage of the soldiers were from Huntsville versus the County, but the City Manager said Huntsville was their city of record and did not have a breakout among the roughly 70-80 soldiers. The City Manager said there are a number of soldiers going back for a third or fourth tour of duty, and hoped the local contributions would provide enough funds.

Councilmember Mahaffey asked about ceremonies and the City Manager said they have heard that many want to be with their families and that he would like to include the H.E.A.R.T.S. Museum.

The Mayor said they have made a wide appeal for this event and fully expected a welcome home ceremony for the soldiers.

Councilmember Barrett asked if the City Attorney needed a statement of public purpose and the City Attorney said he did feel this met a public purpose and provided wording.

The motion passed unanimously.

- k. *Discussion of possible funding source for Smith Hill Road project.* [Councilmember Wagamon]

Councilmember Wagamon referred to the cost estimates in the City Manager's report and asked if there were options other than the significant widening of the road. He said he felt the citizens did not want a thoroughfare but simply an improved roadway with drainage solutions. He wanted to know if the present ditches could be curbed and guttered to alleviate yard flooding. Councilmember Wagamon also asked the City Planner if the area north of the residential area could be removed from consideration, making it less than 5400 square feet. The City Manager said he would try to come up with some other alternatives.

Councilmember Wagamon referred to the \$5 million dollars in uncommitted CDs at a low interest rate that were discussed in the summer and asked if it were possible to consider a small portion of that for a less expensive solution for the road. The City Manager said it could create a shortage in cash flow, and that he and the Finance Director reviewed the CD interest rates periodically, waiting for better rates rather than going long-term.

i. Discussion and possible action on the update on the Sam Houston Statue Gift Shop as presented to HOT Board on October 29, 2009. [Councilmember Ray]

Councilmember Ray said the HOT Board had received a report that he felt would be more appropriate to come to Council, as it was no longer HOT fund activity. The City Manager said the report showed the gift shop had been showing a profit.

Winston Duke, Finance Director, said that for the period of July-September, 2009 the net was approximately \$4,000 per month, \$14,000 for the complete three-month period. Mr. Duke said that the shop lost money in October, but turned that around in the first twelve days of November, plus make a profit of about \$1800 since October 1, 2009. Councilmember Forbus also recalled that the shop was applying for a new tax ID early in the summer, so there was a lag in inventory buildup.

Mr. Duke said reduction of expenses seemed to be the main contributor to the increased profitability. In response to a question from Councilmember Ray, he said those expenses included accounting fees, overhead including the tourism director's fees, and sales would have an impact. Councilmember Ray asked if the shop had ever shown a profit in the past and was told that it had but that last year was a \$2500 loss. Mr. Duke further said the shop had typically shown a profit in one year out of ten and it was usually about \$2000, but often was a break even.

m. City Manager's Report

1. Discussion and possible action to approve Resolution 2010-6 to authorize the City Manager to apply for and accept if awarded the SAFER Grant for four (4) firefighter positions. [Sherry McKibben, Community Development Specialist]

The City Manager said the grant pays for two years and the City would be responsible for the third year. He further said there was no guarantee of getting the grant, as it is directed to rehiring firefighters laid off in large cities. He said the risk would be having to pay for four firefighters in the third year.

Councilmember Forbus made a motion to approve the Resolution. Councilmember Zender seconded the motion.

Councilmember Barrett asked if the City would need additional firefighters, even if the grant were not available. The City Manager said he did hope to have a core of permanent employees in future fire stations, particularly at the airport. He further said that he felt that adequate fire protection in the City limits was a priority.

The motion passed unanimously.

2. Discussion of Old Colony Road sewer project.

Tom Weger, Project Manager, said staff would be bringing a general engineering services agreement to Council, hopefully in December, for authorization to move ahead.

3. Discussion of FM980 water line project.

Tom Weger, Project Manager, said the title company is doing title searches to identify owners to be contacted for easements, and that the survey crews were out surveying.

4. Discuss Austin/TxDOT trip on November 19, 2009.

The Mayor said the Council would be appearing before the Texas Transportation Commission in Austin concerning the improvements to Highway 19, and that the project proposal was a huge step in the right direction.

Councilmember Forbus thanked the staff for their diligent efforts to bring about these results. He also thanked the City Manager, the Mayor and State Representative Lois Kolkhorst.

5. Discussion of intention to refinance TRA bond for Tenaska.

The City Manager stated that this case was a Tenaska bond belonging to TRA, not the City, and that he was going to ask for a refinance. He said the bonds were too high now, at six and a half percent.

11. EXECUTIVE SESSION

- a. City Council will convene in closed session as authorized by Texas Government Code, Chapter 551; Section 551.071 – consultation with counsel on legal matters including legal issues on CCN and Walker County SUD; on claim asserted by AT&T against city for underground cable damage; on status of City

claims against the Huntsville-Walker County Chamber of Commerce; and regarding adverse Attorney General letter ruling. [Leonard Schneider, City Attorney]

The Council adjourned into Executive Session at 10:24pm.

12. RECONVENE

- a. Take action, if necessary, on the item 11a addressed during Executive Session.

The Council reconvened at 10:57pm.

Councilmember Forbus made a motion to direct the staff to pursue the recommended settlement option with Walker County SUD. Councilmember Ray seconded the motion.

The motion passed unanimously.

Councilmember Forbus made a motion to instruct the City Attorney to continue appropriate response to adverse ruling by the Attorney General. The motion was seconded by Councilmember Ray.

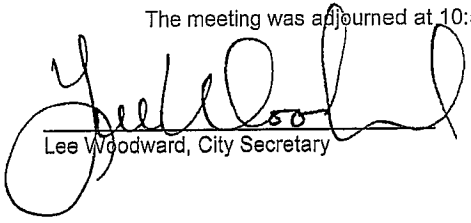
The motion passed unanimously.

13. PUBLIC COMMENT

There was no additional public comment.

14. ADJOURNMENT

The meeting was adjourned at 10:59pm.


Lee Woodward, City Secretary

PRESENTED TO COUNCIL

12/1/09 - corrections
included